

LAW OFFICES  
CHRISTOPHER P. MAIORANA, P.C.  
24025 GREATER MACK, SUITE 200  
ST. CLAIR SHORES, MICHIGAN 48080

CHRISTOPHER P. MAIORANA  
ROBERT M. MILLER  
JOHN J. IGNATOWSKI

(586) 498-0670  
Fax (586) 498-0673  
maioranapc.com

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FACSIMILE MESSAGE

TO: Examiner C. Nguyen  
COMPANY: U.S. Patent and Trademark Office  
RE: Serial No.: 09/434,908 - Filed: November 5, 1999  
FILE NO.: 0325,00281  
FAX NO.: (703) 872-9314  
FROM: Robert M. Miller, Esq.  
DATE: March 11, 2003 TIME: \_\_\_\_\_

TOTAL NUMBER OF PAGES 5 (including cover sheet)

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COMMENTS:

*Enclosed is the following:*

*Summary of Telephone Interview (4 pages).*

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#5  
3-12-03  
Official

Application of: Lane T. Hauck  
Serial No.: 09/434,908  
Title: APPARATUS AND METHOD FOR CONTROLLING AN  
ELECTRONIC PRESENTATION  
Filed: November 5, 1999  
Attorney Docket No.: 0325.00281  
Examiner: Nguyen, C.  
Art Unit: 2675  
In Response To: Advisory Action mailed March 3, 2003

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## CERTIFICATE OF FACSIMILE

The undersigned hereby certifies that the foregoing documents were sent via facsimile to the following: Assistant Commissioner for Patents, Washington, D.C. 20231, Examiner C. Nguyen at (703) 872-9314 on March 11, 2003.

By: Mary Donna Berkley  
Mary Donna Berkley

SUMMARY OF TELEPHONE INTERVIEW

A telephone interview was held on March 10, 2003 between the Examiner and Applicant's representative to discuss the Advisory Action, mailed on March 3, 2003, and the Amendment and Declaration under 37 C.F.R. §1.131, filed February 14, 2003. The Examiner and Applicant's representative agreed that Applicant's representative would submit this summary of the telephone interview and that the Examiner would reconsider (i) entry of the declaration and amendment and (ii) allowance of the presently pending application. The summary of the interview is included below.

In the Advisory Action, the Examiner stated that the Declaration of Lane Hauck under 37 C.F.R. §1.131 required further consideration since it was not presented earlier (see page 2, lines 1-3 of the Advisory Action). The Examiner cited MPEP §715.09 in support of the position. Applicant's representative pointed out to the Examiner that under MPEP §715.09 affidavits and declarations submitted under 37 C.F.R. §1.131 and other evidence traversing rejections are considered timely if submitted after final rejection with a satisfactory showing under 37 C.F.R. §1.116(b) (see MPEP §715.09(C)(2)). Applicant's representative further pointed out that 37 C.F.R. §1.116(b) provides that after a final rejection or other final action in an application, amendments may be made cancelling claims or complying with any requirement of form expressly set forth in a previous Office Action. Also, amendments presenting rejected claims in better form for consideration on appeal may be admitted (37 C.F.R. §1.116(b)).

Applicant's representative and the Examiner discussed that the Declaration under 37 C.F.R. §1.131 antedated the line reference and, therefore, overcame the rejection under 35 U.S.C. §103 (see MPEP §715.02). As such, the declaration clearly removed issues for consideration on appeal. Furthermore, Applicant's representative pointed out that the amendments made to dependent claims 5, 7 and 13 were made for consistency with other claims already considered and thus put the claims in better form for

consideration on appeal. Furthermore, Applicant's representative pointed out that the amendment made to claim 20 addressed specific comments made by the Examiner on page 7, lines 4-9 of the Office Action mailed December 16, 2002. As such, the amendment was believed to provide a satisfactory showing under 37 C.F.R. §1.116(b) and, therefore, the declaration was timely (MPEP §715.09).

The Examiner and Applicant's representative agreed that Applicant's representative would submit this summary of the telephone interview and the Examiner would reconsider (i) entry of the declaration and amendment, filed February 14, 2002, and (ii) allowance of the presently pending application.


Accordingly, the present application is in condition for allowance. Early and favorable action by the Examiner is respectfully solicited.

The Examiner is respectfully invited to call the Applicant's representative should it be deemed beneficial to further advance prosecution of the application.

If any additional fees are due, please charge our office  
Account No. 50-0541.

Respectfully submitted,

CHRISTOPHER P. MAIORANA, P.C.

  
Robert M. Miller  
Registration No. 42,892  
24025 Greater Mack, Suite 200  
St. Clair Shores, MI 48080  
(586) 498-0670

Dated: March 11, 2003

Docket No.: 0325.00281